

IN THE DRAWINGS

The attached sheet of drawings includes changes to Fig. 24. This sheet, which includes Fig. 24, replaces the original sheet including Fig. 24.

Attachment: Replacement Sheet (1)

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

In the outstanding office action, the Information Disclosure Statement (“IDS”) filed August 4, 2008 was been objected to as not being in compliance with U.S. patent practice and procedure; the drawings were objected to as not complying with U.S. patent practice and procedure; Claims 1 and 212 were objected to as containing informalities; and Claims 1-4, 32, 33, 212-215 and 223 were rejected under 35 U.S.C. §103(a) as being unpatentable over Danks (U.S.P. 5,868,773, hereinafter Danks ‘773) in view of Danks (U.S.P. 5,607,440, hereinafter Danks ‘440).

In response to the objection to the August 4, 2008 IDS, Applicants respectfully point out that it is not necessary to submit a PTO form 1449 where the Applicants are submitting a statement of relevancy. In this case, Applicants were relying upon (i) a translation of the Mexican Office Action as a statement of relevancy for references disclosed by the February 24, 2004 IDS, and (ii) a translation of the Japanese office action as a statement of relevancy for references disclosed by the February 24, 2004 and the February 6, 2006 IDS. Should the Examiner have any questions regarding the purpose of submitting these translated office actions, the Examiner is invited to contact Applicant’s attorney.

In response to the Examiner’s objection to the drawings, amendments to the specification have now been made so as to describe each of the upper and lower surfaces of the blade and guard, respectively. See Figure 24. No new matter has been added. In addition, a Letter Submitting Replacement Drawing Sheets is submitted herewith for the purpose of labeling each of these elements. Accordingly, withdrawal of the objection to the drawings is hereby respectfully requested.

In response to the Examiner's objection to Claims 1 and 212 as containing informalities, Claims 1 and 212 have been amended so as to provide proper antecedent basis for the upper and lower surfaces of the blade. Accordingly, favorable reconsideration of this matter is respectfully requested.

Regarding the rejection of Claims 1-4, 32, 33, 212-215 and 223 under 35 U.S.C. §103(a) as being unpatentable over Danks '773 in view of Danks '440, Claims 1 and 212 as amended for clarification require that the upper and lower surfaces of the guard face away from the blade, and are located on an exterior portion of the guard. The upper and lower surfaces of the guard are each substantially planar and parallel to the upper and lower surfaces of the blade. This structure clearly differs from the guard 51 shown in each of Danks '773 and Danks '440. Those guards have rounded outer surfaces 51 which face away from the blade.

Because of the rounded outer shape, Applicants respectfully submit that the surfaces 51 of Danks '773 and Danks '440 would tear the patient's tissue upon penetration of the trocar blade and the guard. In contrast, the presently claimed invention permits a substantially linear cut in the tissue of the patient and penetration of the guard through the linear cut in order to minimize tearing of tissue. Such a configuration also permits the guard to advance ahead of the blade at the moment of penetration through the lowermost portion of the peritoneum during surgery.

Further, insofar as the tip portion of the guard 51 in Danks '440 and Danks '773 has either a bottle-nosed or blunt shape as shown in each of Figures 7A-9B of Danks '440 or is rounded as shown in Figure 5C of Danks '773, neither of these references teaches the utilization of a guard having an edge angle smaller than the edge angle of the blade.

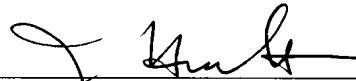
In view of the foregoing, it is submitted that each of independent Claims 1 and 212 clearly patentably define over the above-noted references as well as the remaining references

of record. In view of the dependency of dependent Claims 3-4, 32, 33, 213-215 and 223 upon independent Claims 1 or 212, it is submitted that the dependent claims also merit an indication of allowability.

In view of the foregoing, an early and favorable Office Action is believed to be in order and the same is hereby respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



W. Todd Baker
Registration No. 45,265

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)
JDH/rac

James D. Haminton
Registration No. 28,421
Attorneys of Record

I:\ATTY\JDH\21s\217s\217395us\217395US AM DUE 02.18.09.DOC